

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: ISLAND HI-SPEED FERRY, L.L.C. :
PETITION FOR MODIFICATION OF RATE : DOCKET NO. 3669
ORDERS AND TARIFF ADVICE :

REPORT AND ORDER

I. IHSF's Petitions

On March 29, 2005, Island Hi-Speed Ferry ("IHSF") filed a Petition for Exemption from Commission Rules of Practice and Procedure Part Two together with its Petition for Modification of Rate Orders to allow it to provide two new ticket options, a Season Pass and a Volume Discount rate. On March 30, 2005, IHSF filed an Amended Petition for Modification of Rate Orders.¹ IHSF was seeking to offer two new ticketing options, a Season Pass and a Volume Discount which would have a different rate during the "high season", during July and August and "low season", May, June, September and October. IHSF explained that both new ticketing options allow a traveler to ride the ferry at a rate below the previously approved price floor of twenty-six dollars (\$26.00).

II. Petition for Exemption

IHSF requested an exemption from the provisions of the Commission's Rules entitled "Additional Requirements for Filings of General Rate Schedule Changes." IHSF noted that Rule 2.1 indicates that these requirements are applicable to general rate increases. The Company also noted that Rule 2.2 indicates applicability to proceedings involving the investigation of changes in rates constituting a general rate increase in which the respondent utility's overall revenue requirements are at issue. IHSF argued

¹ During this proceeding, IHSF agreed twice to extend the effective date of its Tariff Filing in light of the fact that the Commission did not suspend the effective date and that IHSF required additional time to respond to discovery during the Commission's investigation. As a result, the effective date of the Tariff Advice became June 20, 2005.

that because it is seeking a discounted rate, Part Two of the Commission's Rules is not applicable. The Division of Public Utilities and Carriers ("Division") had no objection to the Request for Exemption.

Interstate Navigation Company ("Interstate") filed an Objection to the Petition for Exemption. Much of Interstate's objection and Mr. Edge's attached testimony addressed the substance of the Tariff Advice. Addressing the Petition for Exemption, Interstate recognized that not all of the Part Two requirements are necessary for the Commission's decision, but argued that thirteen items contained in Part Two of the Commission's Procedural Rules were necessary.

III. Commission Findings Regarding IHSF's Petition for Exemption

On April 19, 2005, the Commission addressed IHSF's Petition for Exemption from Commission Rules of Practice and Procedure Part 2. The Commission noted at the outset that discussion of the substance of the objection in no way granted Interstate standing or indicates a decision on whether or not Interstate would be allowed to intervene in this matter if it so requested.² The Commission voted 2-0 to grant IHSF's Petition for Exemption from Commission Rules of Practice and Procedure Part 2.

It is important to keep in mind that IHSF is not a traditionally regulated company, but rather, its rates are based on a price floor with no profit or revenue cap. This makes the requirements of Rules 2.5(b), 2.6(a), 2.6(b), 2.6(c), 2.8 (b), 2.8(h), and 2.8(i) unnecessary, just as they were in the last two rate change matters for IHSF. With regard to Rules 2.7, 2.8(r), and 2.8(t), these are contained in IHSF's annual report. With regard

² Interstate and the Town of New Shoreham were allowed to intervene without objection by IHSF. The Commission does not intend this to set any precedent in future IHSF matters.

to Rule 2.8, IHSF has only one filing requirement, the Annual Report, and its most recent one has been filed.

With regard to Rule 2.5(a), IHSF was ordered to file proposed Tariff pages prior to the Commission's decision on the substantive request for new ticket options as soon as possible. With regard to Rule 2.4, IHSF has provided the Commission with 30 days notice under the statute. Additionally, although not initially intervenors, both Interstate and the Town of New Shoreham were made aware of the filing. Furthermore, the Commission filed a Notice of Hearing at least ten (10) days prior to the hearing.

IV. Proposed Tariff Advice

The proposed tariff provided for a Season Pass at a cost of \$500.00. Each pass has to be purchased prior to June 30, 2005 and May 15th of each subsequent year. The passes are non-transferable, except that a company may purchase one to be used by its employees with proper identification. The stated purpose of the Season Pass was to reward IHSF's most frequent travelers. The assumption contained in the filing and in Mr. Lawrence R. Kunkel's Pre-Filed Testimony was that the Season Pass would result in a round-trip cost of \$21.73 if the holder used the ticket every weekend of the summer.

The proposed Volume Discount would be available to groups of 25 or more passengers. The cost during the months of May, June, September and October would be \$20.30 and during the months of July and August, would be \$23.20. The stated purpose of the Volume Discount was to stimulate IHSF's group tour business, particularly in the less-traveled shoulder seasons.

The Commission accepted pre-filed testimony from IHSF and Interstate. A public hearing was held in the Town of New Shoreham on June 17, 2005 for the purposes of

taking evidence. Due to the retirement of one commissioner, only two commissioners were available to hear the matter.

V. Commission Findings on Tariff Advice

On June 20, 2005, at its Open Meeting, as the result of two proposed Motions which were not seconded, the Commission neither approved the tariff nor suspended the tariff. As a result, the proposed tariff went into effect by operation of R.I. Gen. Laws § 39-3-11. However, while the Commissioners did not agree on the disposition of the tariff advice, by a unanimous vote of 2-0, the Commission did require IHSF to report as part of its annual report, the level of usage and revenues arising from offering the season's passes and volume discount fares.

VI. Motion to Reopen

On June 28, 2005, the Town of New Shoreham filed a Motion to Reopen on the basis that it had received a ridership survey from IHSF in response to a data request. The Town argued that the Commission should consider this as new evidence and stay the tariff. On July 8, 2005, IHSF filed a revised Tariff which did not include the offering of a season's pass. On July 11, 2005, IHSF filed an Objection to the Town's Motion and a Memorandum. IHSF confirmed that it will not be offering the Season Pass. IHSF stated that it would consent to reopen the docket once a third commissioner would be available to hear evidence. No additional filings were received and no additional proceedings took place. In conclusion, if IHSF wishes to offer the Season Pass during the 2006 season or any subsequent season, an entirely new proceeding will be initiated in a new docket.

Accordingly, it is hereby

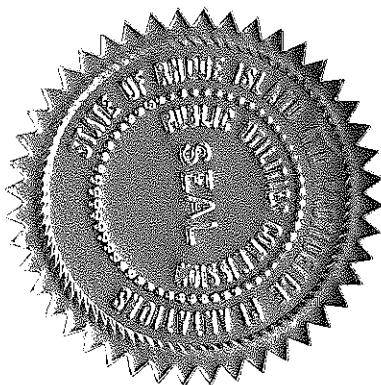
(18564) ORDERED:

1. Island Hi-Speed Ferry's Tariff Advice was not suspended and became effective pursuant to R.I. Gen. Laws § 39-3-11, thus allowing Island Hi-Speed Ferry to offer a Season Pass and Volume Discount.

2. Island Hi-Speed Ferry shall report as part of its annual report, the level of usage and revenues arising from offering the Season Passes and Volume Discount fares.

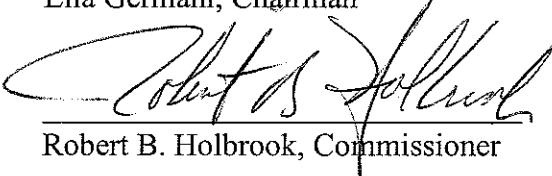
3. Island Hi-Speed Ferry's currently effective Tariff on file with the Commission is that which was filed July 8, 2005, without the inclusion of the Season Pass.

EFFECTIVE AT WARWICK, RHODE ISLAND ON JUNE 20, 2005
PURSUANT TO OPEN MEETING DECISIONS ON APRIL 19, 2005 AND JUNE 20,
2005 AND PURSUANT TO R.I. GEN. LAWS § 39-3-11. WRITTEN ORDER ISSUED
APRIL 5, 2006



PUBLIC UTILITIES COMMISSION


Elia Germani, Chairman


Robert B. Holbrook, Commissioner